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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,850	09/11/2000	John R. Coffee	FMS/130	6046

23432 7590 07/12/2005  
COOPER & DUNHAM, LLP  
1185 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

EXAMINER

FISHER, MICHAEL J

ART UNIT PAPER NUMBER

3629

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/659,850

Applicant(s)

COFFEE ET AL.

Examiner

Michael J. Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

3-0-0

**DETAILED ACTION*****Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,611,755 to Coffee et al. As to claims 1,3,4,7-11,14,15,19-20,22,24,25,28-32,34-38,41,42,44,46-56,58-73,75,76,78,79,81 and 82, although the conflicting claims are not identical, they are not patentably distinct from each other because the patent includes the same limitation except in more precise form. Specifically, the "...location aware business logic... to use said location information to trigger events or to tag events, messages, or other data" as claimed in the patent would correspond to "...a plurality of sensors for measuring parameters related to the usage, function, operation, location, systems or cargo of the truck..." As is more fully related in the following rejection under 35 U.S.C. 102(e), the broader claims of the instant application read on the more limited claims in the patent.

As to claims 2,5,6,12,13,16-18,21,23,26,27,33,39,40,43,45,57,74,77 and 80  
Coffee discloses a system as discussed above.

As to claims 2,5,6,18,23,26,27,33,39,40 GPS receivers work wirelessly and are well known in the art to be handheld, therefore, it would have been obvious to one of ordinary skill in the art to use a handheld GPS receiver as they would not need expensive installation into vehicles. The GPS would be a handheld portable device and a combined navigation (Global Positioning System) and sensor device (it detects a satellite).

As to claim 12, the handheld GPS would inherently know where it is and therefore, it would have means for detecting arrival at and departure from a site.

As to claim 13, it is shown that the GPS reports location and therefore, it would inherently report the information it has as to location.

As to claims 21,43, XML is well known in the art and therefore, provides no patentable distinction.

As to claim 45, the process is shown to use the Internet (20 in fig 1) and therefore, it would be obvious to one of ordinary skill in the art to use a website for correlating information as this would store it in an easily accessible site.

As to claim 57, the information would be inherent in the data collected by a GPS receiver. It would have been obvious to one of ordinary skill in the art to track this information as the assets listed in the patent are cement mixer trucks, which are well known to be large, heavy and therefore difficult to drive and an accident with such a

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truck could cause an enormous amount of damage, both costly in insurance and in good will as accidents can hurt potential customers.

As to claim 74, it would be obvious to get new map software as new roads are continually being built and a construction company would want to keep its records up to date as it would generally be dispatched to new roads to build the houses that would be built on the new roads.

As to claim 77, it is shown that the reporting time is limited (abstract lines 17-19), it would be obvious to one of ordinary skill in the art to notify the asset that an error occurred.

As to claim 80, it would be inherent that this data would be sent to the central computer and to track it and use it would be obvious to be more efficient.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

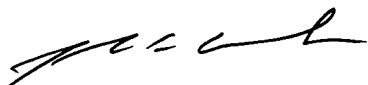
The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 

7/96/05

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600